

paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. However, it is noted that in claim 6, the particular limitation “a blood filter material” in line 4, and “a braided/woven biocompatible material” in line 4, do not need antecedent basis since they are elements of the Markush group which identifies the material from which the filtering member can be made. Therefore, Applicant believes that the Examiner’s rejection of claim 6 is unwarranted. Further, the Examiner has rejected claim 7 based on the recitation of the word “emboli” in line 4. Applicant is not claiming emboli as part of the structure, but rather, is identifying the material that the filter portion traps and collects in the body vessel. The word “emboli” is utilized in the preamble of independent claim 1 from which claim 7 depends. Therefore, it is believed that the Examiner’s rejection under §112, second paragraph, is again unwarranted. Applicant has amended claim 8 to include the recitation of an inlet opening to provide proper antecedent basis for this element throughout claim 8 and for claim 9.

Claims 1 -9 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,086,605 to Barbut et al. (the “Barbut patent”). The Examiner has rejected claims 1-9 based upon the Examiner’s belief that the Barbut apparatus includes three major elements, namely, a mesh which filters blood flowing in a blood vessel, an umbrella frame adapted for positioning and maintaining the mesh in a position wherein

blood passes therethrough, and a means for opening and closing the umbrella frame. Moreover, the Examiner believes that the sealing skirt 930 identified at column 25, lines 50-55 in FIG. 18 of the Barbut patent corresponds to the directional member recited in the present claims. However, Applicant strongly disagrees with the Examiner's position for a number of reasons. First, the sealing skirt 930, disclosed in the Barbut patent is not a directional member as recited in the present claims. Rather, the sealing skirt 930 merely forms part of the filter embodiment used to filter blood in a blood vessel and does not perform the same function as the directional member. Further reference must be given to the sentences appearing in the paragraph cited by the Examiner, namely, column 25, lines 59-65 which read as follows:

“In this embodiment, the structure adapted to open and close the filter may be an umbrella frame (not shown), such as depicted in FIG. 1, or alternatively an inflation balloon (not shown) such as shown in FIG. 7 and FIG. 9. The FIG. 18 embodiment may be used with any of the various means to actuate the structure as described herein.”

Therefore, the filter 906, which includes the sealing skirt 930, requires the presence of a mechanism, such as an umbrella frame or inflation balloon, to open and close the filter 906. However, the directional member, as recited in the claims at issue, is made from a pliable material having properties of blocking the passage of fluid and emboli and

being expandable by the fluid flow in the body vessel to maintain the outer periphery of the directional member against the vessel wall in order to provide a seal against the passage of fluid and emboli. The sealing skirt 930 depicted in the Barbut patent simply does not perform this function. Moreover, Applicant's invention eliminates the need for umbrella frames or inflation balloons to deploy and maintain the filtering portion in the body vessel. As such, Applicant believes that the Barbut patent fails to disclose a directional member as recited in the claims and described in the application.

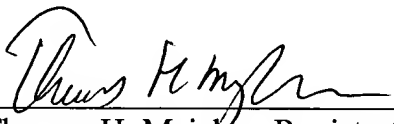
Accordingly, Applicant respectfully requests the Examiner to withdraw the Barbut patent as an anticipatory reference.

The particular combination of elements found in newly presented claims 13-20 are unique and not found in the art of record. Accordingly, Applicant believes that these newly presented claims also are patentably distinct over the art of record.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at 310-824-5555 to facilitate prosecution of this application, if necessary.

Attached hereto is a marked up version of the changes made to the specification and claims by the current Amendment. The attached page is captioned "Version With Markings To Show Changes Made."

Respectfully submitted,
FULWIDER PATTON LEE & UTECHT, LLP


Thomas H. Majcher, Registration No. 31,119

THM:mem

Enclosures:

Three Sheets of Revised Formal Drawings
Return Postcard

Howard Hughes Center
6060 Center Drive, 10th Floor
Los Angeles, California 90045
Tel. No.: (310) 824-5555
Fax No.: (310) 824-9696
USPTO Customer No. 24201

“VERSION WITH MARKINGS TO SHOW CHANGES MADE”

8. (Amended) The filtering device of claim 7, wherein:

the directional member has an inlet opening and the catheter portion

includes a plurality of restraining wires attached near the inlet opening of the directional member and extending along the length of the catheter portion, the restraining wires being retractable from a location outside the body vessel to collapse the directional member.